

Building Fire Safety Committee

Terms of Reference

Adopted by Council on 18 May 2021

1. NAME

The name of the Committee is the Building Fire Safety Committee.

2. ESTABLISHMENT

2.1 Section 157(17) of the *Planning, Development and Infrastructure Act 2016* enables Council to establish an Appropriate Authority which is responsible for matters pertinent to section 157 of that Act.

2.2 The Council has established the Building Fire Safety Committee as an Appropriate Authority pursuant to section 157(16) of the *Planning, Development and Infrastructure Act 2016*.

3. INTERPRETATION

3.1 In these Terms of Reference:

3.1.1 "Act" means the *Planning, Development and Infrastructure Act 2016*;

3.1.2 "Appropriate Authority" refers to the BFSC which is a body established by Council under s157(17) of the Act;

3.1.3 "BFSC" means the Building Fire Safety Committee;

3.1.4 "BFSC Member" or "BFSC Members" means a member or members of the BFSC (and includes a deputy member if the context so provides);

3.1.5 "Building Surveyor" means the BFSC Member under paragraph 4.1.1;

3.1.6 "Council" means the District Council of Mount Remarkable;

3.1.7 "Council Representative" means the BFSC Member under paragraph 4.1.4;

3.1.8 "Operating Procedures" means the operating procedures determined by the BFSC;

3.1.9 "Reasonable Cause" includes the matters specified in paragraph 6.2;

3.1.10 "SAMFS Representative and/or CFS Representative" means the BFSC Member(s) under paragraph 4.1.2;

3.1.11 "Technical Expert" means the BFSC Member under paragraph 4.1.3

3.1.12 "TOR" means these Terms of Reference.

3.2 The TOR will be interpreted subject to the provisions of the Act and its regulations.

4. MEMBERSHIP

- 4.1 The BFSC will comprise the following BFSC Members to be appointed by the Council:
- 4.1.1 a person who holds prescribed qualifications in building surveying appointed by the Council (**Building Surveyor**); and
 - 4.1.2 an authorised officer under Part 3 Division 5 or section 86 of the *Fire and Emergency Services Act 2005* who, depending on the location of the Council area, has been approved by the Chief Officer of the relevant fire authority to participate as a BFSC Member of the Appropriate Authority (**SAMFS Representative and/or CFS Representative**); and
 - 4.1.3 a person with expertise in the area of fire safety appointed by the Council (**Technical Expert**); and
 - 4.1.4 if so determined by the Council – a person selected by the Council and whom the Council considers to be an appropriate person to be a member of the BFSC (**Council Representative**).
- 4.2 The Council may appoint at least one deputy BFSC Member for each ordinary BFSC Member to undertake the business of the BFSC in the absence of an ordinary BFSC Member. A person may only be appointed as a deputy BFSC Member if that person meets the same applicable requirements under paragraphs 4.1.1 to 4.1.4 that would apply were that person to seek appointment as the ordinary BFSC Member to which that deputy relates. A deputy BFSC Member may only act as a deputy for one BFSC Member. Unless the context provides otherwise a reference to a BFSC Member in this document includes a deputy BFSC Member.
- 4.3 The appointment of a BFSC Member may be subject to such conditions and limitations as the Council deems fit.
- 4.4 The Council must elect one of the BFSC Members to be the Presiding Member of the BFSC and that BFSC Member should be either the Building Surveyor or Technical Expert (and if practicable also an employee of the Council).
- 4.5 The Chief Executive Officer of the Council will allocate administrative support in the form of human resources to ensure that reports, agendas, notice of meetings and minutes of the BFSC are recorded and managed in accordance with legislative requirements and the Operating Procedures. Other professional human resources will be allocated as required at the discretion of the Chief Executive Officer of Council.
- 4.6 The term of office for a Member of the BFSC will be a period not exceeding 2 years (other than a BFSC Member under paragraph 4.1.2).
- 4.7 A BFSC Member is eligible for reappointment for a further term, upon the expiry of his or her current term.
- 4.8 The Council may remunerate BFSC Members for the reasonable time and costs incurred by BFSC Members in attending BFSC meetings. Different levels

of remuneration may be fixed by the Council for the Presiding Member as distinct from other BFSC Members.

- 4.9 All BFSC Members shall conduct themselves in a professional manner in accordance with Council and *Local Government Act 1999* requirements.

5. VACANCY OF OFFICE

- 5.1 The office of a BFSC Member (other than a BFSC Member under paragraph 4.1.2) will become vacant if the BFSC Member:

- 5.1.1 dies; or
- 5.1.2 completes a term of office and is not reappointed; or
- 5.1.3 resigns by written notice addressed to the Council; or
- 5.1.4 is removed from office by the Council for any Reasonable Cause.

- 5.2 A vacancy in the membership of the BFSC will not invalidate any decisions of the BFSC, provided a quorum is maintained during meetings.

- 5.3 A BFSC Member whose term of office has expired may nevertheless continue to act as a BFSC Member until the vacancy is filled or for a period of six (6) months from the expiry of the BFSC Member's term of office, whichever occurs first.

- 5.4 Any vacancy in the membership of the BFSC is to be filled as soon as reasonably practicable.

6. REMOVAL FROM OFFICE

- 6.1 A BFSC Member will automatically lose office where:

- 6.1.1 the BFSC Member has become bankrupt or has applied to take the benefit of a law for the relief of insolvent debtors;
- 6.1.2 the BFSC Member has been convicted of an indictable offence punishable by imprisonment; or
- 6.1.3 in the case of an employee of the Council, the BFSC Member ceases to be in the employ of the Council.

- 6.2 The Council may remove a BFSC Member from office where, in the opinion of the Council, the behaviour of the BFSC Member amounts to:

- 6.2.1 a breach of a condition of his or her appointment as a BFSC Member;
- 6.2.2 misconduct;
- 6.2.3 a breach of any legislative obligation or duty of a BFSC Member;
- 6.2.4 neglect of duty in attending to role and responsibilities as a BFSC Member;
- 6.2.5 a failure to carry out satisfactorily the duties of his or her office;

- 6.2.6 a breach of fiduciary duty that arises by virtue of his or her office;
 - 6.2.7 inability to carry out satisfactorily the duties of his or her office;
 - 6.2.8 a failure without reasonable excuse to attend three consecutive BFSC meetings without the BFSC previously having resolved to grant a leave of absence to the BFSC Member; or
 - 6.2.9 for any other reason the Council considers appropriate.
- 6.3 The removal of the BFSC Member pursuant to paragraph 6.2 will take effect upon the Council resolution to remove the BFSC Member from office (unless the Council resolves otherwise), and such resolution will be confirmed in writing by the Chief Executive Officer of the Council to the BFSC Member within seven (7) days of being resolved.
- 6.4 Prior to resolving to remove a BFSC Member from office pursuant to paragraph 6.2, the Council must:
- 6.4.1 not less than seven (7) days before the Council considers the matter of the possible removal of the BFSC Member from office, give written notice to the BFSC Member of its intention to remove the BFSC Member from office pursuant to paragraph 6.2 and such notice must detail the alleged behaviour of the BFSC Member falling within paragraph 6.2 or reason the Council considers it appropriate to remove the BFSC Member;
 - 6.4.2 give the BFSC Member an opportunity to make a written or verbal submission to the Council on its intention to remove the BFSC Member from office by such date as the Council reasonably determines but in all circumstance prior to the Council resolving to remove the BFSC Member from office pursuant to paragraph 6.2; and
 - 6.4.3 have due regard to the BFSC Member's submission in paragraph 6.4.2 in determining whether to remove the BFSC Member from office.

7. ROLES AND FUNCTIONS

- 7.1 The BFSC is charged with the responsibility for all matters arising under Section 157(17) of the Act including associated regulations which are of a building fire safety nature.
- 7.2 The BFSC should consider the following priorities when conducting its business:
- 7.2.1 The South Australian Metropolitan Fire Service or South Australian Country Fire Service requests an inspection to be carried out on the building;
 - 7.2.2 A complaint is received in relation to the building;
 - 7.2.3 Advice is received from a Building Officer of Council that the fire safety of the building is deficient; or

- 7.2.4 The building is a type of building designated as a building inspection priority or building investigation priority as determined in a guideline of the BFSC from time to time.
- 7.3 The BFSC will generally notify the manager or owner in writing of the premises that it wishes to inspect. Where time does not permit written notification, verbal notice on the day of inspection or prior to the inspection will be undertaken.
- 7.4 Letters and documentation will be written and presented in accordance with any guidelines adopted by the BFSC. All correspondence will be presented on Council letterhead and signed by the Presiding Member on behalf of the BFSC or a BFSC Member who is an employee of the Council.
- 7.5 Notices and methods implemented when dealing with issues arising for the BFSC will be conducted in accordance with any guidelines adopted by the BFSC, the Act and, where required, the *Local Government Act 1999*.
- 7.6 Subject to paragraph 7.7, all issues will generally be addressed initially with the building owner or delegate via a letter that will clearly state a response date. If no adequate action has been undertaken after the initial response date the BFSC will consider the matter and may decide to issue a notice requiring a report detailing the adequacy of the fire safety of the building.
- 7.7 In extreme circumstances or matters of urgency the BFSC may elect to issue a notice as an initial course of action.

8. MEETINGS

- 8.1 A quorum for a meeting of the BFSC shall be:
- 8.1.1 a minimum of two BFSC Members; and
 - 8.1.2 those BFSC Members in attendance must be the:
 - 8.1.2.1 Building Surveyor or Technical Expert; and
 - 8.1.2.2 SAMFS Representative and/or CFS Representative.
- 8.2 In the event that the Presiding Member is not present at a meeting (or part thereof) or has declared a personal interest or a direct or indirect pecuniary interest in any matter before the BFSC, or for any other reason is unable to take part in any deliberations or decision of the BFSC then an Acting Presiding Member will be appointed by those BFSC Members who are present at the meeting for the purpose of presiding at that BFSC meeting.
- 8.3 All decisions made by the BFSC shall be made on the basis of a majority decision of the BFSC Members present. In an event of a tied vote the Presiding Member shall not have a casting vote in addition to the deliberative vote.
- 8.4 The BFSC shall meet at the Council's offices at 3 Stuart Street, Melrose, or at such other places as determined by the BFSC from time to time and which shall also include a meeting conducted in whole or in part by electronic means by way of telephone, computer or other electronic device used for communication (**Electronic Meeting**).

- 8.5 The BFSC shall meet on a day and at a time nominated by the Presiding Member, with a minimum of three (3) ordinary meetings in each calendar year, and may hold a special meeting at any other time at the direction of the Presiding Member.
- 8.6 A BFSC Member who has a personal interest or a direct or indirect pecuniary interest in any matter before the BFSC (other than an indirect interest that exists in common with a substantial class of persons) must not take part in any deliberations or decisions of the BFSC in relation to that matter.
- 8.7 The BFSC Member must remove themselves from the room where the BFSC is considering the matter and cannot return until consideration of that item has concluded. It is inappropriate for a BFSC Member to represent any third parties before the BFSC in relation to a matter on which they have declared an interest.
- 8.8 The following provisions apply to the calling of meetings:
- 8.8.1 In the case of an ordinary meeting of the BFSC, the Presiding Member must give each BFSC Member notice of a meeting at least three (3) clear business days before the date of the meeting.
- 8.8.2 In the case of an electronic meeting to be held by way of electronic means (in whole or in part), the notice must include details of how to connect to the meeting.
- 8.8.3 In the case of a special meeting of the BFSC, the Presiding Member must give each Member of the BFSC a notice of meeting at least four (4) hours before the commencement of the meeting.
- 8.8.4 Notice must be given to a BFSC Member:
- 8.8.4.1 personally; or
- 8.8.4.2 by posting or otherwise delivering it to any place authorised in writing by the member; or
- 8.8.4.3 by any other means authorised in writing by the member as being a preferable means of giving notice (e.g. email); and
- 8.8.4.4 in writing; and
- 8.8.4.5 setting out the date, time and place of the meeting; and
- 8.8.4.6 containing or accompanied by the agenda and any documents and/or reports that are to be considered at the meeting (in so far as is practicable).
- 8.8.5 Notice that is not given in accordance with paragraph 8.8.4 is taken to have been validly given if the Presiding Member considers it impracticable to give the notice in accordance with that paragraph and takes action the Presiding Member considers reasonably practicable in the circumstances to bring the notice to the attention of the BFSC Member.

- 8.8.6 The Presiding Member may delegate the notification and agenda responsibilities under paragraphs 8.8.1 to 8.8.5 to another BFSC Member (which if practicable should be the Council Representative).
- 8.8.7 A BFSC Member attending an Electronic Meeting by electronic means is taken to be present at the meeting provided that the BFSC Member:
 - 8.8.7.1 can hear and, where possible, see all other BFSC Members who are present at the meeting;
 - 8.8.7.2 can be heard and, where possible, be seen by all other BFSC Members present at the meeting; and
 - 8.8.7.3 can be heard and, where possible, be seen by the person recording the minutes of the meeting.
- 8.8.8 Each Member present at a meeting (either in person or by electronic means) must, subject to that person having an interest in the matter, vote on a question arising for decision at that meeting.
- 8.8.9 The Presiding Member must keep, or arrange to be kept by the Council Representative if in attendance, minutes of every meeting of the BFSC. The minutes of the meetings must include:
 - 8.8.9.1 the names of the BFSC Members present;
 - 8.8.9.2 in relation to each BFSC Member present, if the BFSC Member was not present for the entire meeting, the time at which the person entered or left the meeting;
 - 8.8.9.3 all motions or amendment, and the names of the mover and seconder;
 - 8.8.9.4 whether a motion or amendment is carried or lost;
 - 8.8.9.5 any disclosure of interest made by a BFSC Member; and
 - 8.8.9.6 any other matter required to be included in the minutes by direction of the Council.
- 8.8.10 The role of the Presiding Member of the BFSC includes (but is not limited to):
 - 8.8.10.1 the conduct of business of the BFSC at meetings and during site inspections;
 - 8.8.10.2 ensuring appropriate meeting procedures are followed; and
 - 8.8.10.3 ensuring the BFSC complies with the TOR and Act.
- 8.8.11 All matters considered by the BFSC, including agendas and minutes will be recorded and stored electronically in the Council's Records Management System by the Council Representative in accordance with Council policy.

- 8.8.12 The Council will be responsible for all record holding as required under the *State Records Act 1997*.
- 8.8.13 Subject to compliance with any relevant law, all BFSC proceedings shall generally be treated as confidential and shall not be made available in a public or generic form. In particular,
 - 8.8.13.1 all meetings of the BFSC are to be held in confidence unless otherwise determined by the BFSC;
 - 8.8.13.2 all documentation provided to the BFSC by external parties engaged by, directed or confided in by the BFSC shall be treated as confidential;
 - 8.8.13.3 no BFSC related document, advice or proceeding shall be distributed outside of the Council (unless required by any relevant law), without the consent of the Council or its delegate; and
 - 8.8.13.4 if a document, advice or proceeding is distributed with the consent of the Council, that distribution is to be limited to the party/s authorised to receive it.
- 8.8.14 The BFSC shall provide a report to the Council on an annual basis outlining the BFSC's activities, including the types of notices which have been issued, the outcomes of the respective notices, the number of inspections which have been undertaken and any outstanding matters that the BFSC is currently pursuing.
- 8.8.15 The procedure to be observed at a meeting of the BFSC, insofar as the procedure is not prescribed by these TOR, may be determined by the BFSC.